

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Gene Mason, et al.  
App. No. : 10/679,963  
Filed : October 6, 2003  
For : OPTICAL PROBE INCLUDING  
PREDETERMINED EMISSION  
WAVELENGTH BASED ON  
PATIENT TYPE  
Examiner : Unknown

ESTABLISHMENT OF RIGHT OF ASSIGNEE TO TAKE ACTION  
AND  
REVOCATION AND POWER OF ATTORNEY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The undersigned is empowered to act on behalf of the assignee below (the "Assignee"). A true copy of the original Assignment of the above-captioned application from the Inventors to the Assignee is attached hereto. This Assignment represents the entire chain of title of this invention from the Inventors to the Assignee.

I declare that all statements made herein are true, and that all statements made upon information and belief are believed to be true, and further, that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that willful, false statements may jeopardize the validity of the application, or any patent issuing thereon.

The undersigned hereby revokes any previous powers of attorney in the subject application, and hereby appoints the registrants of Knobbe, Martens, Olson & Bear, LLP, 2040 Main Street, Fourteenth Floor, Irvine, California 92614, Telephone

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(949) 760-0404, **Customer No. 20,995**, as its attorneys with full power of substitution and revocation to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected herewith. This appointment is to be to the exclusion of the Inventors and his attorney(s) in accordance with the provisions of 37 C.F.R. § 3.71.

Please use **Customer No. 20,995** for all communications.

MASIMO CORPORATION

Dated: 2/27/04

By:   
Chris Kilpatrick

Title: V.P. Business Development and  
General Counsel

Address: 2852 Kelvin Avenue  
Irvine, CA 92614

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ASSIGNMENT

WHEREAS, We, Gene Mason, residing at 2072 Las Palomas Drive, La Habra Heights, CA 90631, a citizen of the United States of America, and Ammar Al-Ali, residing at 10880 Phillips Street, Tustin, CA, 92782, a citizen of the United States of America, have invented certain new and useful improvements in a OPTICAL PROBE INCLUDING PREDETERMINED EMISSION WAVELENGTH BASED ON PATIENT TYPE for which we have executed an application for Letters Patent in the United States, on even date herewith;

AND WHEREAS, Masimo Corporation (hereinafter "ASSIGNEE"), a Delaware Corporation, with its principal place of business at 2852 Kelvin Avenue, Irvine, California, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to me in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, we, the said inventors, do hereby acknowledge that we have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, the entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all provisional applications relating thereto, and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and we hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND WE HEREBY covenant and agree that we will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to us respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 5<sup>th</sup> day of February, 2004.

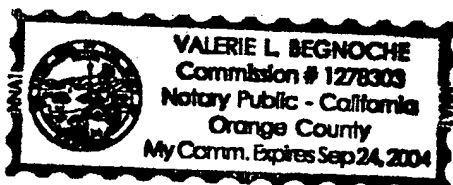
Gene Mason  
Gene Mason

STATE OF California }  
COUNTY OF Orange } ss.

On Feb 5, 2004, before me, Valerie L. Begnoche, personally appeared Gene Mason personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]



Valerie L. Begnoche  
Notary Signature

Not for Recordation

Application No.: 10/679,963  
Filing Date: October 6, 2003

## Not for Recordation

PATENT  
Client Code: MASIMO.353A  
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IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 25 day of Feb, 2004


  
Ammar Al-Ali

STATE OF California }  
COUNTY OF Orange } ss.

On Feb 25, 2004, before me, Valerie L. Bognache, personally appeared Ammar Al-Ali personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

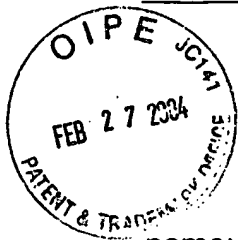
WITNESS my hand and official seal.

[SEAL]

  
Notary Signature

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## Not for Recordation

**DECLARATION - USA PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled OPTICAL PROBE INCLUDING PREDETERMINED EMISSION WAVELENGTH BASED ON PATIENT TYPE; the specification of which is attached hereto;

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim the benefit under Title 35, United States Codes § 119(e) of any United States provisional application(s) listed below.

Application No.: 60/416,492

Filing Date: October 4, 2002

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: **Gene Mason**

Inventor's signature Gene Mason

Date 2/5/04

Residence: **2072 Las Palomas Drive, La Habra Heights, CA 90631**

Citizenship: **United States of America**

Post Office Address: **same as above.**

Full name of second inventor: **Ammar Al-Ali**

Inventor's signature  \_\_\_\_\_

Date 2 - 24 - 2004

Residence: **10880 Phillips Street, Tustin, CA 92782**

Citizenship: **United States of America**

Post Office Address: **same as above.**

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Send Correspondence To:  
**KNOBBE, MARTENS, OLSON & BEAR, LLP**  
**Customer No. 20,995**